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Annual report of the Special Rapporteur on the right to education, Katarina Tomaševski, submitted in accordance with Commission on Human Rights resolution 2000/9

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Executive summary

This is the third annual report of the Special Rapporteur on the right to education, submitted to the Commission on Human Rights at a key stage when the mandate is due for renewal. The Special Rapporteur is suggesting to the Commission that it consider all available options, from not renewing her mandate to its altering or strengthening, guided by the mismatch between the obstacles she has faced in carrying out her mandate and the full potency of the right to education which could, and should, be cultivated.

As outlined in Section I, the right to education constitutes a veritable bridge between civil and political, and economic, social and cultural rights. The current orientation of global development strategies towards poverty eradication makes the right to education a powerful tool for mainstreaming human rights and enhancing gender equality. Further explication of the human rights dimensions of education will facilitate the work of many international actors dealing with education, and this necessitates a great deal of human rights input. Like Janus, the Roman guardian of portals, education has two faces: the one in front promises to unlock other rights where the right to education is guaranteed, while the one at the back exhibits compounded denials of rights stemming from the denial of the right to education.

The Commission on Human Rights has urged the Special Rapporteur to focus on obstacles and difficulties impeding the realization of the right to education, and Section II describes her work at both domestic and international levels. In her correspondence with individual Governments, the Special Rapporteur has addressed specific problems, events, or phenomena which have been communicated to the United Nations from all over the world. The merging of the right to education and the rights of the child has also required addressing thematic issues. Collaboration with the Committee on the Rights of the Child and the ILO/IPEC (International Programme for the Elimination of Child Labour of the International Labour Organization) has made discrepancies between the school leaving age and the minimum age for employment a pertinent topic so as to advance the long-established principle whereby children should be at school until they reach the minimum age for employment. The launching of the United Nations 10-Year Girls' Education Initiative exemplifies the range and complexity of difficulties which ought to be overcome, not least the focus on HIV/AIDS education.

The need to promote human rights as a corrective to global development strategies has guided the Special Rapporteur in her work. Section II summarizes the Special Rapporteur's continued dialogue with the World Bank, through extensive correspondence as well as her visits to the Bank. The grounding of human rights in the rule of law is the necessary underpinning for all human rights protection. While many pronouncements have emerged from the World Bank concerning human rights, none of these is binding for the Bank's lending operations. This problem is immense and so the Special Rapporteur has chosen as the first step the charging of fees in primary education. She is recommending to the World Bank an in-house review of all its education lending in order to identify all instances where fees are being charged in primary education, followed by guidance to all staff and information to the affected populations on immediate measures for their abolition. Alongside the inevitable undermining of international human rights law which the continued charging of fees in primary education entails, precluding access to school to those who are too poor to pay school fees counters the World Bank's commitment to combating poverty because education is a passageway out of poverty.

The need to integrate human rights in all international strategies is illustrated in Section III. The Commission's emphasis on the mainstreaming of gender has been particularly pertinent in education in emergencies. An increased terminological shift to gender has not always been accompanied by the needed conceptual shift, which requires regard to both sexes as well as the relations between them. The growing global attention to the causation of warfare and to peace-building requires prioritizing education. A great deal of human rights input is necessary to redress the damage caused by abusing education to instigate institutionalized discrimination or to promote violence, particularly in humanitarian and peace-building programmes. International funding for education in emergencies has increased, which somewhat ameliorates the gloomy picture of constantly diminishing aid flows. The interplay between global and domestic environments has been a dominant feature of the economic, fiscal and commercial policies which embody a risk of marginalizing the right to education. The Special Rapporteur has devoted considerable attention to debt relief initiatives, striving to articulate and advocate the need to fully integrate the right to education. Following her progress report, she has also continued to examine developments in international trade in education services, including new phenomena such as *webucation*. Arguing that education is a public good and that schooling is a public service has become as difficult as it is necessary.

The growth of rights-based strategies in international development cooperation constitutes a welcome novelty, and developments in the United Kingdom, Norway and Sweden are highlighted in Section IV. The Special Rapporteur has made it an important part of her work to facilitate the use of human rights standards in development cooperation, including those aiming at gender equality.

Section V presents a few highlights from results of the Special Rapporteur's work on analysing and summarizing the international and domestic legal frameworks of the right to education. These will be available through the emerging public access human rights resource and training centre on the right to education, which will include an online service (www.right-to-education.org) as of 15 March 2001. She has continued applying her 4-A scheme, whereby governmental human rights obligations are to make education available, accessible, acceptable and adaptable, and is developing the first jurisprudence database on the right to education and human rights in education. These are essential prerequisites for furthering human rights education, particularly necessary during the United Nations Decade for Human Rights Education.

Conclusions and recommendations review the path travelled thus far and highlight the most promising avenues for consolidating the right to education in the work of the Commission on Human Rights.

Introduction

1. By its resolution 1998/33 of 17 April 1998, the Commission appointed the Special Rapporteur on the right to education for an initial period of three years within its general effort to impart higher visibility to economic, social and cultural rights. This report depicts the road travelled thus far, highlights developments relevant for the right to education, briefly describes the Special Rapporteur's work, and suggests for the Commission's consideration important issues pertinent to her mandate.

2. The Special Rapporteur has done her best to comply with the requirements of her mandate despite minuscule support by the Office of the High Commissioner for Human Rights, consisting of about 10 per cent of a full-time equivalent of one junior human rights officer, and an annual budget which effectively allows only one mission every second year. At the seventh annual meeting of Special Rapporteurs/Representatives, Independent Experts and Chairpersons of Working Groups of the special procedures of the Commission on Human Rights held from 5 to 9 June 2000, the Special Rapporteur was elected to chair the group until the next annual meeting in June 2001. This has considerably increased her workload but has also provided an opportunity for closer consultation and cooperation amongst Special Rapporteurs and for initiating an interactive dialogue with the Commission.

3. To fulfil even the minimum requirements of her mandate, the Special Rapporteur has had to rely on external support. It has thankfully been forthcoming, and there is a wide range of institutions and individuals to whom the Special Rapporteur owes a debt of gratitude - her colleagues within the thematic and country procedures of the Commission on Human Rights, members and secretariats of the human rights treaty bodies, academic institutes, non-governmental organizations and, especially, her former and current students. The need to mobilize a great deal of unpaid work by her former students has been, regretfully, the only way to do the work needed to firmly ground her mandate upon the practice of States in interpreting and putting into practice the right to education. She is particularly thankful for the external funding which has enabled her to carry out her mandate.[1]

4. The Special Rapporteur wishes to acknowledge the moral support of ActionAid, whose members from all over the world have launched a veritable writing campaign in support of her work. She has been surprised and delighted to receive hundreds of cards from individuals who feel strongly about voicing their personal support for translating the right to education into reality for all children, especially girls.

I. NURTURING THE RIGHT TO EDUCATION TO ITS FULL POTENCY

5. The firm grounding of the right to education in international and domestic human rights law provides for the clarity and specificity of human rights standards needed for addressing its key dimensions at the global level. The right to education is recognized, promoted and protected at all levels - from local to global - and it fully reflects the interplay between the dual processes of globalization and localization which are now taking place. In most federal countries, education pertains to the remit of regional or local authorities and the current trend towards decentralization furthers the localization of education. The parallel process of globalization substantively affects only the uppermost levels of the education pyramid. Primary education

remains local and this is unlikely to change. However, the financial impact of globalization affects the whole education pyramid, while its ideological underpinning treats education as an industry [2] which provides a service that is traded just like any other. The role of the State in education, affirmed in international and domestic human rights law, provides a powerful antidote against the risk of depleting education of remaining a public good and schooling from remaining a public service. The full mobilization of the existing human rights standards for education can neutralize negative dimensions of globalization at all levels, thus enabling the human rights community to provide a timely contribution to developments which were, until recently, deemed to lie beyond the reach of human rights safeguards.

A. Interface between civil/political and economic/social/cultural rights

6. The right to education straddles the division of human rights into civil and political, on the one hand, and economic, social and cultural, on the other hand. It embodies them all. This feature affirms the conceptual universality of human rights, which is evidenced in the increasing focus on the human rights of women and the rights of the child. While it is acknowledged that gender discrimination cannot be eliminated as long as it remains artificially divided between different categories of rights, further steps are necessary to design and put into practice a comprehensive strategy for its elimination with regard to the right to education, human rights in education, as well as enhancing the enjoyment of all rights and freedoms through education.

7. Improved access of girls to school has been prioritized in the global education strategies by setting 2005 as the target year for the elimination of gender disparities, a full decade before access to school for all children is to be attained. The record thus far has been mixed - China has eliminated gender disparity in access to school, girls outnumber boys in countries such as Botswana, Lesotho, Mongolia or the Philippines, but in the Arab States gender disparity has actually increased in 1995-2000 with proportionally fewer girls having had access to schooling.[3] The launching of the United Nations 10-Year Girls' Education Initiative provides a clear focus for further enhancing successes and facilitating the elimination of the existing obstacles. Human rights input figures prominently in this Initiative because the record thus far has demonstrated that all individual rights affect education. Women's land ownership and employment opportunities influence the motivation of parents and the girls themselves. Successful prolongation of girls' schooling delays marriage and childbearing, thus decreasing fertility and the numbers of children to be educated in the future. Women's increased political representation often tends to have beneficial effects on governmental social policies and on countering the militarization of societies.

8. The commitment to increase access to education for girls has focused on the identification and elimination of obstacles, which has led to the realization that discrimination is often multiple, with race, family income, ethnicity, religion, and nationality[4] compounding and complicating the elimination of gender discrimination. Mere access to school does not suffice and *all* human rights in education need to be integrated so as to make schooling human rights friendly. Studies of school textbooks have often revealed that women are portrayed as staying at home while men are out in the public making history. A survey of the presence of women in textbooks used in primary education in Peru revealed that women were mentioned 10 times less often than men.[5] A study of textbooks in the United Republic of Tanzania in such apparently

neutral subjects as learning English and Kiswahili showed girls doing domestic chores as a favourite topic.[6] Alongside the orientation and contents of education, methods of teaching and the protection of girls' safety and dignity have become important topics of study and policy-making. Moreover, the interrelatedness of human rights has further broadened inquiry into girls' prospects after schooling. The current priority of poverty eradication has provided an additional incentive: schooling as the sole asset cannot lead women (or men for that matter) out of poverty.

B. Prerequisite for the eradication of poverty

9. The two focal points of international financial support for education at the beginning of the new millennium are human rights and poverty eradication.[7] Neither of the two is new but the linkage between them is novel. Clearly and powerfully articulated human rights - both in education and in poverty eradication - are necessary in order to prevent the current focus on poverty from lowering the goals of international development cooperation. Cynics could discern lowered ambitions in the shift from development to poverty eradication, from education to basic education, and from education as a public good to education as a tool for poverty eradication. The definition of education in international human rights law is therefore a necessary safeguard - it spans the right to education, human rights in education, and human rights education.

10. Investment in the education of all children was historically assigned to the State because it yields delayed economic returns and, moreover, only in combination with other assets. The human rights approach can greatly facilitate prioritizing education of all children because it alters political choices that, on their own, work in other directions. Education rarely attains the priority in budgetary allocation which international human rights law requires, and where it does, allocations are slanted towards higher education at the expense of primary education. The Republic of Korea is a favourite example of the sound economic rationale for investing in primary education, with two thirds of public funding allocated to primary education in 1960-1975, followed by one third of the total to secondary education in 1975-1990.[8] This example is important because disappointments with education which has been ill-suited to income generation have been many. They have been evidenced recently in Eastern Europe where the generally high levels of education have not proved their value as an economic investment. It is indicative that only one in seven young people in Eastern Europe has recently rated education as essential for getting ahead in life.[9] Disillusionment with education which is producing armies of unemployed graduates is well known throughout the world and demonstrates the necessity of affirming the interrelationship of human rights in the very design of education strategies.

C. Passkey for unlocking other human rights

11. Many individual rights are beyond the reach of those who have been deprived of education, especially rights associated with employment and social security. Education operates as a multiplier, enhancing the enjoyment of all individual rights and freedoms where the right to education is effectively guaranteed, while depriving people of the enjoyment of many rights and freedoms where the right to education is denied or violated.

12. Without education, people are impeded from access to employment. Lower educational accomplishment routinely prejudices their career advancement. Lower salaries negatively affect their old-age security. Denial of the right to education triggers exclusion from the labour market and marginalization into some form of informal sector, accompanied by exclusion from social security schemes because of the prior exclusion from the labour market. Redressing the existing imbalance in life chances without the full recognition of the right to education is thus impossible. Moreover, illiterate people in quite a few countries are precluded from political representation. There is thus a large number of human rights problems which cannot be solved unless the right to education is addressed as the key to unlocking other human rights.

13. From the perspective of the rights of the child, education constitutes the key for the child's perception of human rights. Specific courses in human rights education are located at the top of the education pyramid and are unlikely to be effective if the child was earlier taught about her or his own unworthiness because the child happens to be female or disabled. One important educational experience of any child between the ages of three and five is being taught to perceive a viewpoint different from the child's own, because small children perceive only one side of everything: their own. Many political and armed conflicts are founded upon each side perceiving only one side of everything: its own. The ability of education to socialize children into understanding and accepting views different from their own is an important lesson for all human rights education.

14. The language of education constitutes a frequent battleground within education laws and policies. One important reason is that intergenerational transmission through institutionalized schooling is crucial for the survival of any culture. However, education as a cultural right has been overwhelmed by the political dimensions of the choice of official languages and languages of instruction, their financial implications, and the varied experiences in promoting the best interests of learners. The Special Rapporteur is carefully monitoring experiences with bilingual and multilingual education and will devote increased attention to this issue in the future.

II. ADDRESSING OBSTACLES IMPEDING THE REALIZATION OF THE RIGHT TO EDUCATION

15. The Commission on Human Rights has asked the Special Rapporteur to focus on overcoming obstacles and difficulties in the realization of the right to education worldwide. This is a necessary and important part of human rights work because the corollary of the recognition of any right is that the right can and will be violated. The Special Rapporteur has carried out an in-depth study of the practice of States in the interpretation and application of the right to education (summarized in Section V), which has revealed a great deal of conformity with the requirements of international human rights law. This has provided an excellent basis for strengthening all facets of the right to education and for the examination of obstacles so that they can be effectively addressed and eliminated.

16. As mentioned in her progress report (E/CN.4/2000/6, para. 10), the Special Rapporteur has replicated the procedure set up for other mandates. She has not sent out any general request for information but approached specific Governments for clarification when particular difficulties concerning the right to education were brought to her attention. The Special Rapporteur's close cooperation with her colleagues within the thematic and country-specific

procedures, the human rights treaty bodies, and international organizations which are addressing specific denials and violations of the right to education - especially UNESCO and ILO - have facilitated the development of common approaches and avoidance of duplication. On 11 September 2000 the Special Rapporteur participated in the seventh session of the Joint ILO/UNESCO Committee of Experts on the Application of the Recommendation concerning the Status of Teachers (CEART). CEART monitors the implementation of the 1966 ILO/UNESCO Recommendation on the Status of Teachers (adopted by the Special Intergovernmental Conference on the Status of Teachers convened by UNESCO), and has recently expanded its remit to the status of university teachers on the basis of the 1997 UNESCO Recommendation concerning the Status of Higher Education Teaching Personnel.[10] It meets once every three years to deal with, *inter alia*, complaints from teachers' unions alleging non-observance of the spirit and wording of the 1966 Recommendation.

A. Correspondence with individual Governments

17. On 18 June 1999, together with the Special Rapporteur on freedom of opinion and expression, the Special Rapporteur addressed a letter to the Government of Malaysia concerning the alleged summary dismissal of Professor Chandra Muzaffar as the Director of the Centre for Civilizational Dialogue of the University of Malaya. She has not followed up that case because Mr. Muzaffar changed his profession and is no longer working in the field of education.

18. The Special Rapporteur sent a letter to the Government of Sri Lanka on 11 August 1999 with a query about administrative requirements for admission to primary school. It was brought to her attention that the lack of citizenship and residence certificates could lead to the denial of admission to school, and displaced and stateless children were alleged to be particularly affected by these requirements. The Government's reply of 11 November 1999 confirmed that citizenship and residence certificates were required for school enrolment, and explained that new administrative regulations of May 1999 exempted from compliance, *inter alia*, "children of families displaced due to terrorist activities". As part of her work on education in emergencies, the Special Rapporteur will follow up this issue in Sri Lanka and elsewhere.

19. In her letter of 13 August 1999, the Special Rapporteur brought to the attention of the Government of Ethiopia an apparently interrelated series of events which targeted officials of the Ethiopian Teachers' Association (ETA). One of them, Dr. Taye Wolde-Semayat, was sentenced in June 1999 to long-term imprisonment. Another, Essefa Maru, was killed in 1997; he was the President of ETA at the time. The response by the Government of Ethiopia of 27 August 1999 included a summarized translation of the judgement delivered on 3 June 1999 against Dr. Wolde-Semayat and five other defendants for "organizing and arming a clandestine illegal group called Ethiopian Patriots' Front, inciting armed revolt and civil war with the intent to overthrow the legitimate government". The Government's letter noted that the results of an internal investigation into the killing of Essefe Maru revealed that he had been killed while resisting arrest and that the police had acted in self-defence. The Special Rapporteur sent a follow-up letter to the Government of Ethiopia on 19 November 2000. Her collaboration with the ILO has facilitated avoidance of duplication and has further enabled the Special Rapporteur to focus on those issues which are pertinent to her mandate, especially the impact of this series of cases on the ongoing legal reforms regarding the recruitment of teachers, their conditions of work and their evaluation.

20. On 6 June 2000, the Special Rapporteur addressed a letter to the Government of the Czech Republic concerning the process of legal reform targeting the intersection between elimination of racial and gender discrimination and minority rights with regard to Roma communities. As part of her collaboration with human rights treaty bodies, the Special Rapporteur has been working on quantitative and qualitative aspects of the equal right to education and equal rights in education. She has inquired into ongoing efforts to ensure the equal right to education and human rights in education, especially for members of the Roma minority. The portrayal of this particular minority in educational curricula and textbooks has also been brought to the Special Rapporteur's attention as a possible obstacle to their full enjoyment of the right to education. On 30 October 2000, the Government of the Czech Republic sent an "Information on the Education of the Roma Minority in the Czech Republic", which summarizes some general features of the current situation. The Government has noted that a minuscule fraction of Roma children actually declare themselves to be Roma, and the reason may well be the image of the Roma community, including in school textbooks. The Government has emphasized its positive attitude towards the education of Roma and the Special Rapporteur shall follow up this issue through correspondence with the Government and cooperation with other Special Rapporteurs, the human rights treaty bodies, and the ILO.

21. The Special Rapporteur on 6 June 2000 sent a letter to the Government of Turkey regarding mother-tongue education, specifically inquiring about a series of court cases in which criminal penalties had allegedly been imposed for offences of advocating mother-tongue education. She also requested information about the evolving interpretation of the constitutional provisions concerning education and language, apparently aimed at bringing the domestic human rights framework closer to the requirements of international human rights law. The Special Rapporteur made an effort to clarify the scope and implications of the issues she was raising through an informal meeting, and the Government on 24 November 2000 sent a letter indicating that a response was forthcoming.

22. On 6 June 2000, the Special Rapporteur addressed a letter to the Government of Israel raising her concern about the allocation of educational resources within different types of schooling, which was apparently biased against Arab schools and learners. She expressed her deep concern about the likely discriminatory impact of such budgetary allocations. The rupturing of what proved to have been virtual rather than real peace in the second half of the year 2000 diverted the focus of the United Nations to another effort at peacemaking. Problems relating to education are not likely to disappear, however, and the role of education in peacemaking and peace-building constitutes too important an issue not to be constantly kept amongst the priorities for international attention and action. The Special Rapporteur will thus follow up this subject matter as soon as it is feasible.

23. The Special Rapporteur on 12 September 2000 sent a letter to the Government of the Gambia regarding an ongoing inquiry into the quelling of a student demonstration on 10 April 2000, which reportedly resulted in numerous casualties amongst students and pupils and detentions of student leaders. That demonstration was organized in protest against previous victimization of fellow students by law enforcement personnel, which had reportedly included the rape of a schoolgirl and the beating to death of a secondary school pupil. There having been no reply by the Government, the Special Rapporteur sent a follow-up letter

on 20 November 2000, pointing out that a commission of inquiry established by the Government had reportedly finished its work. The Special Rapporteur is awaiting the results of this commission's deliberations and information on the follow-up which the Government has undertaken.

24. On 12 September 2000, the Special Rapporteur sent a letter to the Government of India concerning many reports which she has received about the violence targeting Christian schools and teachers in the period 1998-2000. She sought the cooperation of the Government in clarifying what the responses to such violence have been in individual States, especially in Gujarat, and also inquired into the portrayal of different communities in school curricula and textbooks. While fully aware of the allocations of responsibility within education between central and State governments, the Special Rapporteur emphasized the responsibility of the State in ensuring the full implementation of international human rights law binding upon it. She further clarified the multi-faceted effects of the complex problem addressed in her correspondence for the full realization of the right to education through an informal meeting. The Government's initial response followed on 8 December 2000, noting that, thus far, investigations of violence against minority schools and/or teachers have revealed "sporadic and isolated incidents in a few remote corners of the country, carried out by criminal and fringe elements". The Special Rapporteur has been greatly encouraged by the reaffirmed commitment of the Government of India not to tolerate any such violence, and is looking forward to receiving further information, especially on the work of the Minorities Cell in the federal Ministry of Home Affairs which is, as the Government emphasizes, dealing with complaints of atrocities targeting minorities. She has also been encouraged by information that the State government in Gujarat has decided to revise school curricula and textbooks because "objectionable contents" have been identified in some textbooks, in use as of 1992. She is looking forward to receiving further information about this initiative.

25. The Special Rapporteur on 14 June 2000 addressed a letter to the Government of Uzbekistan concerning alleged expulsions of schoolgirls from educational institutions owing to their wearing of headscarves. There was no reply by the Government, reportedly because her letter had not been received. The Special Rapporteur re-sent her letter on 20 November 2000 and is awaiting the Government's response.

26. On 16 August 2000 the Special Rapporteur, together with the Special Rapporteur on freedom of opinion and expression, sent a letter to the Government of Tunisia with regard to the alleged dismissal of Dr. Moncef Marzouki from his post as professor of medicine, apparently because of his human rights work. She has not followed up this case because the newly appointed Special Representative on human rights defenders is dealing with it.

27. The Special Rapporteur on 13 November 2000 sent a letter to the Government of Latvia concerning allegations she has received about children dropping out of compulsory schooling owing to particularly severe effects of impoverishment on their families. From the information she has received, it seems that rendering families homeless has figured prominently amongst reasons for the children's inability to attend school. Reasons for the evictions included the inability of the family to pay the housing rates or the electricity and heating bills. The Government sent its initial reply on 11 December 2000, highlighting the main features of the right to education in the country, describing organizations working for the rights of the child, and

confirming that social problems have been identified as an obstacle to children's education, while not specifically responding to the issue which the Special Rapporteur raised. The Government has assured the Special Rapporteur that further information would be forthcoming and she will follow this up as soon as this is feasible.

B. Overcoming widespread difficulties

28. In November 2000, the Special Rapporteur finalized the first part of her research into the linkage between the right to education and children's freedom from labour, following her initial examination of the utilization of compulsory education as an effective tool for eliminating child labour (E/CN.4/2000/6, paras. 61-65). The well-established correspondence between school-leaving age and minimum age for employment served as the benchmark, and her further work consisted of a comparative review of domestic laws which define the ages for compulsory education and the minimum age of employment. She has found that many countries could benefit from a comprehensive examination of domestic law from the perspective of the rights of the child because the gap between school-leaving age and minimum age for employment leaves children in a legal vacuum - they are above the age of compulsory schooling but below the age at which the law allows them to be employed. On 7 and 8 November 2000, the Special Rapporteur sent letters to the Governments of Bangladesh, Benin, Burundi, Cuba, the Islamic Republic of Iran, Iraq, the Lao People's Democratic Republic, Mali, Nicaragua and Vanuatu, drawing their attention to the gap between the school-leaving age and the minimum age for employment. This gap is in many cases as large as five years, with children finishing compulsory school at the age of 10 and being allowed to work at the age of 15. On 16 November 2000, the Government of Bangladesh sent a letter inquiring into the source of information, and the Special Rapporteur will use this opportunity to provide the Government with the entire background as soon as this report is ready for dissemination. The Special Rapporteur is aiming to gradually extend the coverage to all countries in the world, in cooperation with ILO/IPEC and the Committee on the Rights of the Child. It is likely that a similar problem is faced by children in many countries and the universality of human rights requires addressing it wherever it exists. Moreover, the Special Rapporteur deems it immensely useful to address those issues for which international cooperation can be instrumental in facilitating domestic change. In her correspondence with Governments, she has emphasized the need for legal reform with a view to adapting domestic law to the Convention on the Rights of the Child, pointing out that putting law into practice often necessitates targeted financial support so as to alleviate poverty-driven child labour. The Worst Forms of Child Labour Convention, 1999 (No. 182) came into force on 19 November 2000[11] and provides an excellent framework for lengthening the protection of children from the worst forms of abuse up to the age of 18 as well as obligating Governments to ensure education for the former child labourers.

29. A great deal of work remains necessary to clarify, consolidate and further develop human rights guidance for the orientation and contents of education, as discussed in Section V. Another issue which requires attention is school discipline, especially corporal punishment. The process of prohibiting and eliminating corporal punishment will be long because violence against children is part of our global heritage. Using violence to instil obedience into schoolchildren and to punish them for wrongdoing openly conflicts with the purposes of education as they are spelled out in international human rights law, translated into many domestic laws and confirmed by an increasing number of court judgments. The Special Rapporteur has started examining the

practice of States in order to discern the general pattern and trends, as well as precedent-setting court cases. Adapting education to the goals of human rights education necessitates acknowledging that children learn through example, and the lesson that might is right which corporal punishment teaches conflicts with any human rights messages that may be verbally conveyed.

30. The 10-year United Nations Girls' Education Initiative, launched at the Education for All Forum in Dakar, in April 2000, and coordinated by the United Nations Development Group (UNDG), has provided the Special Rapporteur with an excellent incentive for broadening her collaboration with UNICEF. This Initiative requires a great deal of human rights input in responding to the Secretary-General's challenge to empower girls to protect themselves against HIV/AIDS.[12] There is no need to point out how controversial human sexuality, an inevitable part of HIV/AIDS-education, has always been and how much effort is needed to design and put into practice educational modules acceptable to all relevant actors. Progress is evident from the attention paid to HIV/AIDS in current global education strategies, replacing the silence of the past two decades. Building on her long experience in dealing with the human rights dimensions of HIV/AIDS, the Special Rapporteur is planning to devote considerable attention to this issue.

C. Continuing dialogue with the World Bank

31. The Special Rapporteur has continued her dialogue with the World Bank, as the Commission on Human Rights has requested, and a great deal of correspondence has been generated on many issues where the Bank's lending policies intersect with the right to education and affect human rights in education. She visited Washington D.C. from 27 to 29 November 2000 in order to discuss the key issues with Bank officials. The Special Rapporteur would like to put on record her gratitude to Eduardo Doryan, Vice President in charge of the Human Development Network, for efficiently organizing her visit and for his kindness; to Mats Karlsson, Vice President for External Affairs, for the many practical ideas on how cooperation between the Bank and other United Nations actors could be increased; and to Ko-Yung Tung, Vice President and General Counsel, for his candid explication of the legal dimensions of the Bank's lending operations.

32. A great deal of patience has been necessary to initiate and pursue a dialogue on linking the right to education and lending for education, and the Special Rapporteur is fully aware of the long and uphill path which lies ahead. The Bank's increased resort to human rights language has facilitated her task by creating an opening for the right to education as a corrective for the Bank's lending activities, but the insertion of key human rights standards requires changes in the Bank's operative rules.[13] The enormity of this task, which will remain a challenge for the human rights community for a long time to come, has necessitated a clear and narrow focus for the Special Rapporteur in order to advance her dialogue with the World Bank, and she has chosen school fees in primary education as the first step.

1. Perils of a diffused remit

33. The World Bank's terms of reference span such diverse issues as judicial reform and rural transport, female genital mutilation and disaster risk management, ethnic conflict and child

labour. While all of these can, in one way or another, be subsumed under the notion of development in a broad sense of this term, the expertise and experience for every and any of the many diverse issues demand such a broad range of professional standards and inputs that even the estimated Bank's 12,000 employees[14] cannot possibly do justice to them all, especially because the Bank's core professional expertise lies in economics. Moreover, there are numerous existing international organizations which have been working on particular issues for a very long time and have developed considerable expertise and experience. Many are assisting developing countries through grants, which facilitate their capacity to comply with international legal obligations. The World Bank's total lending diminished in fiscal year 2000,[15] pointing perhaps to one explanation for the Bank's broadening of the areas for which it is providing loans.

34. The World Bank's new mission statement posits combating poverty with passion and professionalism. The related goal of achieving a world free of poverty requires evidence that this can be accomplished through the Bank's strategy, but, more importantly, it raises the question of accountability if it transpires that poverty is actually increasing. The World Bank's dedication to poverty reduction 30 years ago makes the posing of this question pertinent.

35. The extent to which a single institution can combine different, and sometimes mutually conflicting roles (to be a leader in capital markets and to dream about a world free of poverty), is a topic of much discussion, within and around the Bank. The Special Rapporteur has encountered this dilemma within the World Bank itself, with one part advocating the abolition of school fees in primary education in order to combat poverty and another tolerating, if not encouraging them, so as to decrease governmental budgetary allocations, and thus fiscal deficits, through cost-sharing. One example is Zambia, where "reducing cost barriers for the ultra-poor" through bursaries has been emphasized as a method for coping with school fees in primary education.[16] Alongside the absence of a commitment to making primary education free, and uncertainties as to which children will be classified as poor (or ultra-poor) to merit bursaries, this model also raises concerns about the administrative costs of collecting school fees (necessarily minuscule in poor rural Zambia) and administrating the bursaries (also minuscule). It provides, in the Special Rapporteur's view, excellent evidence as to why primary education was designed to be free.

36. Just before the Special Rapporteur's visit to the World Bank, President Clinton signed into law the 2001 Foreign Operations Appropriations Act, following the initiative of the United States Congress to abolish fees in primary education in the lending operations of the World Bank and the International Monetary Fund (IMF).[17] The Special Rapporteur will closely monitor this initiative and report to the Commission. She is also planning a mission to the United States of America, which has been provisionally scheduled to take place from 17 to 28 September 2001.

2. The need for the rule-of-law approach

37. During her visit to the World Bank in November 2000, the Special Rapporteur met with Jim MacNeill (the Chairman of the Inspection Panel), Edward Ayensu (Member of the Panel), Antonia Macedo (Assistant Executive Secretary), and Alberto Ninio (Assistant Executive Secretary). She would like to put on record her gratitude to them all for helping her to

conceptualize how best to overcome the gap between the World Bank's policies and the international human rights obligations of borrowers regarding the right to education, especially the requirement that primary education be made free of charge.

38. The Inspection Panel was set up in 1993 and has been hailed for the explicit acknowledgment that the Bank can violate individual rights which its establishment epitomized.[18] The Inspection Panel is a non-judicial body and limited to determining whether the Bank has followed its own operational policies and procedures. Its work has demonstrated how difficult it is to reconcile the requirement of accountability with the heritage of its absence. The Panel has noted that the Bank's Management "has used every possible defence to avoid an investigation" and "has consistently denied violation of policies".[19] It has mainly dealt with environmental protection and forced displacement because the Bank's binding rules have been created for these issues. Since it is the Bank's own body intended to ensure its own accountability, the Special Rapporteur requested a meeting in order to determine how practices which are obviously in conflict both with international human rights law and with the Bank's anti-poverty aims - such as school fees in primary education - could best be rectified.

39. The Panel's remit was revised twice, in 1996 and 1999. The second change has introduced a very demanding yardstick for assessing whether material adverse effects have been experienced by complainants, in terms of a deterioration compared to a without-project situation.[20] In education, this would require proof that a Bank lending operation has actually diminished access to education. This was the case in Malawi in 1982, when the then Government increased school fees, reportedly following the World Bank's advice.[21] The current slant of lending for education seems to be favouring the elimination of fees in primary education, but the heritage of the 1980s may be persisting. At that time, the Bank was endorsing "judicious use of modest fees" with an explanation that school fees would increase accountability.[22] In 1990, while noting that cost-sharing was more appropriate in post-primary education, the Bank nevertheless hailed the significant sums raised by school fees in primary education.[23] The Bank's commitment in 1992 to sustaining and enhancing social expenditure, especially for primary education (OD 8.60),[24] marked a changed approach which has been, as the Special Rapporteur noted in her progress report (E/CN.4/2000/6, para. 48), accompanied by subsequent silence about school fees. The many ongoing lending operations may include the charging of fees. Adjustment lending operations should be compatible with, at least, OD 8.60, while it is uncertain what binding rules exist, if any, for investment lending in education. All lending should probably be consistent with the overarching objective of poverty reduction. The Special Rapporteur cannot see the rationale of advocating education as a key to poverty reduction while school fees prevent poor children from access to education, thus closing off their path out of poverty. There is, as yet, no in-house mechanism to ensure that fees have been eliminated from all Bank lending and the Special Rapporteur recommends that this be made a priority.

40. The Special Rapporteur's meeting with the Inspection Panel, as well as her meeting with the Bank's General Counsel, Ko-Yung Tung, included an examination of the sources of operative rules which inform the Bank's lending operations. The former General Counsel, Ibrahim Shihata, has interpreted the remit of the Inspection Panel to be limited to "the Bank's failure to meet its standards, which are only required by itself and not by any binding rule of law".[25] This interpretation has affirmed the full exemption of the World Bank from any judicial

scrutiny because it enjoys legal immunity before domestic courts and no international litigation has ever been attempted. A unique situation thus persists whereby the World Bank is apparently bound only by those rules which it has created for itself, thus constituting a considerable challenge for all advocates of the rule of law.

41. The Panel's retrospective overview of problems which are directly relevant for the right to education has singled out the imbalance disfavouring social dimensions in the Bank's policies. [26] An effort to elevate the status of social dimensions has thus been implicitly diagnosed as necessary. In education, this requires amending operational policies so as to prioritize primary education for all, free of charge. Making this binding for all staff and consultants working in education, accompanied by wide publicity for the elimination of school fees in primary education for all affected populations, would constitute an excellent first step in the World Bank's commitment to human rights in the area of education.

III. INTEGRATING HUMAN RIGHTS IN INTERNATIONAL STRATEGIES

42. The turn of the millennium has been marked by global conferences which reviewed the decade of the 1990s and set the agenda for the future. The most important one in education, the Fourth Global Meeting of the International Consultative Forum on Education for All, took place in Dakar from 26 to 28 April 2000 and adopted the Framework for Action entitled *Education for All: Meeting Our Commitments*. This meeting was referred to as Jomtien+10 in popular parlance and it was based on the acknowledgment that commitments made at the World Conference on Education for All at Jomtien, Thailand, in 1990 had not been met. The Dakar Framework for Action has posited a "human right to benefit from an education that will benefit" one's learning needs.[27] This key formulation has not repeated the language of international human rights instruments, some of which have actually been mentioned in the adopted text. The World Bank's statement at the World Education Forum further increased confusion by referring to free primary education as a long-term plan, to be affirmed in the year 2015.[28]

43. Human rights input is therefore very much needed in translating the Dakar Framework for Action into practice, starting from the very language. The Special Rapporteur has been addressing this issue because it constitutes an indispensable prerequisite for scaling up references to human rights and transforming them into the mainstreaming of human rights. One example suffices to illustrate the necessity of reviewing statistics: the continued utilization of education statistics whose meaning may be exactly the opposite of what they purportedly show. Gross educational enrolments often reveal the failure of schooling rather than its success because the data include all over-age children, even where many are repeating the year.

44. Human rights contribution can be particularly valuable in elevating the status of education in financial allocations, internationally and domestically, relying on governmental human rights obligations, individual and collective, to accord priority to human rights. The forthcoming Special Session of the General Assembly on Children, to which the Special Rapporteur will contribute through her collaboration with UNICEF, as well as the planned global conference on financing for development, provide excellent opportunities for providing such input.

45. On 13 September 2000 the Special Rapporteur participated in the Seminar on Facilitating the Integration of Human Rights into Work on Extreme Poverty and Racism, organized by the International Service for Human Rights. Contributions from the human rights community are needed to create needed - but lacking - educational statistics so as to demonstrate how various grounds of discrimination combine to trap the new generation in a vicious downward cycle of denied rights, where the lack of access to education leads to the exclusion from the labour market, which then results in perpetuating and increasing impoverishment. To the Special Rapporteur's deep regret, many proposals, including her own, to include all internationally prohibited grounds of discrimination in the creation of education statistics were not included in the final document adopted at Dakar; this remains a challenge for the future. The Special Rapporteur will make a contribution to the forthcoming World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance focusing on multiple discrimination in education. She will particularly look into the impact of overlapping grounds of discrimination, such as gender, race, ethnicity, religion, or language, and suggest possible human rights remedies.

A. War as a gender issue

46. A particularly worrisome facet of intergovernmental gender policies has been the tendency to shift terminologically to gender while continuing to talk only about girls and women. War is thus not seen as a gender issue although boys are disproportionately affected by their socialization into the role of combatants. Throughout history, schooling contributed to the militarization of boys. Participation in warfare was a part of traditional initiation rituals, through which boys become men, for millions of boys. Glorification of war continues through those school textbooks which are dotted with wars and war heroes, through the promotion of violent sports, and the almost limitless commercialization of computerized war games. Education for war has, unfortunately, a much longer tradition and is more commercially attractive than education for peace, and the human rights response ought to be forged.

47. Nevertheless, education is commonly discussed in quantitative terms. In countries which have just undergone warfare, pleas for education in the name of returning to normal life often means reverting to pre-war education. The extent to which education actually contributed to warfare is questioned only if extreme examples of advocating genocide are identified. The former Special Rapporteur on the situation of human rights in Rwanda noted how successive governments conditioned the population to accept ethnic discrimination and moulded education to fit this aim by propagating a culture of mutual fear and pre-emptive self-defence.[29] Otherwise, education is assumed to have been benign, which is often not the case. Sierra Leone has provided a blatant, albeit typical, example of the contribution which education made to spawning warfare. The initial enthusiasm for mass education at independence soon gave way to the institutionalization of inequality. Mass enrolment at the beginning of primary school did not lead to mass persistence through primary and secondary education up to the university, except for the narrow elite whose children actually made it all the way up the education pyramid. Frustrated expectations of early school leavers - especially boys - have been shown to lead to criminality, violence and warfare.[30] Their abandonment to their own fate, accompanied by the paucity of lawful methods of survival, often made the choices of adolescents a foregone

conclusion. The neglect of adolescents has been an unintended consequence of the priority for primary education in global education strategies. Peace-building requires particular attention to the education of adolescents, both girls and boys. The Special Rapporteur is planning to devote considerable attention to this issue in cooperation with the Special Representative on the impact of armed conflicts on children.

B. Humanitarian and human rights approaches

48. The Special Rapporteur had her first meeting with UNHCR (Office of the United Nations High Commissioner for Refugees) on 28 June 2000 and the second on 13 September 2000, which led to cooperation in many areas of shared interest. She took part in the UNHCR/UNICEF/UNESCO consultation on education in emergencies on 8 November 2000. She has been heartened by the establishment of the Refugee Education Trust to mark the fiftieth anniversary of UNHCR and its dedication to post-primary education. The meeting on education in emergencies revealed that juveniles and/or teenagers often represent a forgotten category, and UNHCR's initiative is thus a welcome reminder that the right to education does not stop with the end of childhood.

49. An important obstacle to universalizing the right to education is a view that education is not indispensable for human survival nor required for subsistence. The absence of education for victims of armed conflicts and disasters dooms them to remain recipients of assistance while preventing them from becoming self-sustaining. Water, sanitation, medical services, shelter, clothing and food constitute the "survival package" which is offered through humanitarian relief. Including education in this package is a development of the 1990s, but overcoming the previous "ideology of survivalism" has yet to become institutionalized.

50. One particular problem has been brought to the attention of the Special Rapporteur by many individuals affected by it, namely denials of access to education based on domestic laws which are implementing the Security Council's sanctions against individual countries. United Nations human rights bodies have generally addressed this issue, with the Committee on Economic, Social and Cultural Rights noting that humanitarian exemptions do not encompass access to primary education,[31] and the Commission on Human Rights reaffirming that food and medicine should not be used as tools for political coercion[32] but not mentioning education. Deprivation of education can be encompassed by sanctions which would then, according to Marc Bossuyt's study for the Sub-Commission on the Promotion and Protection of Human Rights, constitute a violation of the right to education.[33] The Special Rapporteur is planning to continue examining the international and domestic law governing this issue so as to provide a background for the Commission's further examination of the underlying problems.

C. Debt relief

51. The linkage between alleviation of unsustainable debt burdens and increased funding for education has become stronger within HIPC-II (the Enhanced Heavily Indebted Poor Countries Debt Relief Initiative) and, while the speed of decision-making might not have kept up with the initial expectations, the commitment seems to have been sustained. The new requirement has

been the preparation of poverty reduction strategy papers (PRSPs). Because of the alphabet soup which the proliferation of such abbreviations has created, two translations of this new abbreviation have emerged: the originally intended Poverty Reduction Strategy Papers (PRSPs), and another - Public Relations Strategy Papers (PRSPs). At the time of writing, too little was publicly available for the Special Rapporteur to be able to comprehensively analyse the fate of the right to education in these strategies, and she will provide further information to the Commission as soon as sufficient documentation becomes available for drawing preliminary conclusions.

52. The importance of diverting funds from debt servicing to education has been broadly accepted, but the Special Rapporteur remains concerned about the required "demonstrable results in poverty reduction",[34] which may create difficulties where funds are allocated to primary education. Such demonstrable results are delayed since children have become adults, and evolve only where education is not the sole asset for them. Productive use of education requires land ownership, access to credit, or facilitation of self-employment where access to the labour market is limited or non-existent. On its own, education is unlikely to generate income for its beneficiaries or tax revenue for Governments. The Special Rapporteur will continue promoting interrelatedness of human rights in debt relief, advocating the integration of all pertinent human rights - the right to education, human rights in education, and human rights through education.

53. Guided by the emphasis placed by the Commission on following up country missions, during a private visit to Uganda in October 2000 the Special Rapporteur continued her close collaboration with UNICEF. As noted in the report on her mission to Uganda (E/CN.4/2000/6/Add.1, paras. 30-34), divergent policies of creditors and donors were at that time promoting education by allocating funds released through debt relief to increasing enrolments in primary education, while aggravating the pupil-teacher ratio by inhibiting recruitment of teachers so as not to increase the civil service. Although the figures varied, the pupil-teacher ratio in some schools was 130:1. In September 1999, it was announced that Uganda would benefit from additional debt relief which would enable the pupil-teacher ratio to be halved.[35] At the time, a new Poverty Reduction Growth Facility (PRGF) was announced, replacing the ESAF (Enhanced Structural Adjustment Facility), and promising that social and sectoral programmes aimed at poverty reduction would be taken fully into account.[36] In May 2000 Uganda became the first country to receive debt relief under HIPC-II.[37]

54. In her report on the mission to Uganda, the Special Rapporteur emphasized discrepancies in the official statistics, with enrolment in primary schools sometimes as high as 6.7 million and the number of teachers as low as 87,000. She was extremely concerned to learn in October 2000 that discrepancies in education statistics were addressed through police raids on schools, aimed at determining contradictions between the numbers recorded in school registers and the numbers of children in school. These may lead to diminished numbers of nominally registered children but will not solve all the discrepancies in the officially reported figures. Allocations for education within public expenditure were reported as being 10.7 per cent and 13.05 per cent for the same period by the same agency, namely the International Monetary Fund,[38] while concerns about defence expenditure do not seem to have been alleviated.[39]

D. International trade in education services and *webucation*

55. There is a long history of advances in the technology of education, with each new technological method or gadget raising hopes that a way has been found to cut short the long process of teaching and learning, that a magic bullet for education has been found. High hopes accompanying each invention have always turned into frustration and then disappointment.

56. The current obsession with information and communication technology speaks to the 5 per cent of humanity who have access to the gadgets needed to partake in *webucation*, IT-based on-line learning. The focus is on post-school learning, founded upon the assumption that people both want and need lifelong learning and that self-motivation suffices as human contact has been virtually eliminated in *webucation*. Previous attempts to make education technology intensive rather than keeping it labour intensive have vastly expanded and commercialization has been the driving force. The global *webucation* market is estimated at $50 billion,[40] which corresponds to the entire annual flow of development aid from all donors for all purposes. Profits can be increased a great deal if instead of reaching hundreds of students at university, thousands if not millions can be reached through on-line courses.

57. Frustration is much less publicized than the potential of these novelties. The latter is embodied in two-page advertisements in leading international newspapers. The former gets an occasional two-line mention, such as the results of surveys which show that people find *webucation* boring and drop out at a rate of 80 per cent.[41] The Web is likely to prove useful as a research tool but its benefits as a medium of education remain unproven. First and foremost, education of young children is local, and it is difficult to imagine families and communities replaced by *webucation*. Secondly, getting older children used to surfing and skimming in cyberspace does not bode well for their social skills, for which education is essential.

58. Overcoming the digital divide has become a hotly debated global issue and much has been promised to enhance access to up-to-date technology for schools and schoolchildren in poor regions, countries and communities. Such promises may well founder owing to the lack of electricity in many poor schools, closures of village schools in winter because of the lack of heating, gaps in teaching because the teachers' salaries have not been paid for months, or the absence of children from school because they have to walk far to school and are too hungry to make the trip.

59. It is useful in facing such questions to pause to think about what the core values are that we must protect in considering the choices to be made, as well as contemplating their consequences, both intended and unintended.

IV. RIGHTS-BASED POLICIES IN DEVELOPMENT COOPERATION

60. The commitment of an increasing number of donors to rights-based education has created an excellent opportunity - and also the need - for human rights education and training. On 24 May 2000, the Special Rapporteur held a seminar at the Department for International

Development (DFID) for the educational and human rights personnel, organized to facilitate DFID's further work on rights-based education. This was one component of the follow-up to her mission to the United Kingdom in October 1999 (E/CN.4/2000/6/Add. 2), and she has been immensely encouraged by the professionalism of the DFID staff and their commitment to adapting their work so as to advance human rights.

61. On 7 March 2000, the Special Rapporteur held a similar seminar for the professional staff working on human rights and education at Sida (the Swedish International Development Agency), which enabled her to "field-test" the presentation of human rights law to professionals working in education. The development of Sida's rights-based policy on education represents not only an increase in the number of donors committed to rights-based education but also qualitative innovations in the conceptual framework. Sida's approach to defining the right *to* education, specifying human rights *in* education, and adding rights *through* education constitutes a step forward and the Special Rapporteur is extremely appreciative of Sida's contribution.

62. On 4 September 2000, the Special Rapporteur gave a seminar on the right to education and human rights in education at NORAD (the Norwegian Agency for Development Cooperation). She has been greatly encouraged by the enthusiasm for the clarification of human rights input in the design of education strategies and by the ease with which development professionals and educationalists are coping with human rights law, which tends to be perceived as a deterrent by non-lawyers.

63. On 23 October 2000, the Special Rapporteur took part in the hearings on economic, social and cultural rights organized by the Committee on Human Rights of the German Parliament (Bundestag). The comprehensive agenda of the Committee, spanning the domestic, regional and global dimensions of economic, social and cultural rights, bodes well for the future, as does the immense interest shown for bridging the gap between the rhetoric on economic, social and cultural rights and the operative priorities at all levels. The involvement of trade unions and development organizations, combined with the input from human rights treaty bodies and thematic mechanisms, constitutes a promising model for elaborating strategies for change.

V. STREAMLINING THE HUMAN RIGHTS FRAMEWORK FOR EDUCATION

64. In her preliminary and progress reports (E/CN.4/1999/49, paras. 42-74 and E/CN.4/2000/6, paras. 30-65), the Special Rapporteur depicted the conceptual framework of governmental human rights obligations in education, which are easily structured into the 4-A scheme - to make education available, accessible, acceptable and adaptable. Her subsequent work of collecting, analysing and summarizing the jurisprudence worldwide has enriched this conceptual framework by demonstrating that the right to education is being litigated worldwide and governmental human rights obligations are being judicially affirmed and further clarified.

65. Two features of the existing jurisprudence merit emphasis. Firstly, there is an inverse proportion between the availability of education and access to remedy for its denial or violation, namely litigation tends to be confined to those parts of the world where education is both available and accessible. Securing at least primary education for all children thus remains an enduring priority, and international action is urgently needed to make the right to education truly universal. Secondly, little existing jurisprudence has been generated by human rights activists or organizations. Furthermore, this rich jurisprudence is fairly unknown within the human rights community and the lingering view whereby the right to education is deemed not to be justiciable persists. It is founded upon a classification of the right to education amongst economic, social and cultural rights, ignoring the fact that the right to education has civil and political components and these are vigorously litigated all over the world, domestically and internationally. Moreover, economic, social and cultural components are being litigated as well. The Special Rapporteur's contribution to human rights education will include making results of her work available through a public access database (www.right-to-education.org, planned to be launched on 15 March 2001), in line with the Commission's suggested model for furthering human rights education.

A. Prioritizing free and compulsory education for all children

66. In her previous reports the Special Rapporteur summarized key features of the international legal framework of the right to education, guided by the need to keep her mandate firmly grounded in international human rights law. In her preliminary report (E/CN.4/1999/49), she outlined the two pillars of human rights obligations: securing free and compulsory education for all children, and respecting freedom *of* and *in* education. In her progress report (E/CN.4/2000/6), she presented the first results of her research into the international and domestic legal framework, structured into the 4-A scheme. She has then moved on to examine domestic guarantees for the right to education to find that constitutional guarantees of free and compulsory education for all children have been adopted in the majority of countries. As the table below[42] illustrates, there are 44 countries where there is no explicit constitutional guarantee of the right to education, while there is such a guarantee in 142 countries. The practice of States thus overwhelmingly reflects the thrust of international human rights law.

67. As the table also illustrates, there is a range of countries in which the right to education is being progressively realized and international cooperation is facilitating progress in quite a few of them. The requirement of the Convention on the Rights of the Child that all children have guaranteed access to education regardless of their legal status, or that of their parents, is gradually being translated into the practice of States. However, in 37 countries the right to education is formally restricted to citizens and residents. As part of her collaboration with the Committee on the Rights of the Child and UNHCR, the Special Rapporteur has started examining access to education for those children who are likely to be facing legal obstacles, such as asylum-seekers and refugees, as well as children who are stateless.

Constitutional guarantees of free and compulsory education for all children

Countries where free and compulsory education for all is constitutionally guaranteed:	*Countries with progressive realization or partial guarantees*:
Albania, Algeria, Argentina, Australia, Austria, Azerbaijan, Barbados, Belgium, Belize, Bolivia, Bosnia and Herzegovina, Brazil, Bulgaria, Canada, Cape Verde, Chile, China, Colombia, Congo, Costa Rica, Croatia, Cuba, Denmark, Ecuador, Egypt, Estonia, Finland, France, Gambia, Georgia, Germany, Ghana, Haiti, Honduras, Iceland, Ireland, Italy, Japan, Latvia, Liechtenstein, Lithuania, Madagascar, Malta, Mauritius, Mexico, Netherlands, Norway, Palau, Panama, Paraguay, Peru, Poland, Portugal, Republic of Korea, Republic of Moldova, Romania, Russian Federation, Rwanda, Saudi Arabia, South Africa, Spain, Sri Lanka, Suriname, Sweden, Switzerland, Tajikistan, Thailand, the former Yugoslav Republic of Macedonia, Trinidad and Tobago, Tunisia, Ukraine, United Arab Emirates, United Kingdom of Great Britain and Northern Ireland, Uruguay, Venezuela, Yugoslavia	Bangladesh, Belarus, Benin, Bhutan, Cameroon, Comoros, Guinea, Guinea-Bissau, India, Iran (Islamic Republic of), Iraq, Israel, Maldives, Micronesia (Federated States of), Monaco, Mongolia, Myanmar, Namibia, Nepal, Nigeria, Pakistan, Saint Kitts and Nevis, Sierra Leone, Sudan, Togo, Uganda, United Republic of Tanzania, Uzbekistan, Zimbabwe
Countries where guarantees are restricted to citizens or residents:	*Countries with no constitutional guarantee*:
Armenia, Bahrain, Cambodia, Chad, Cyprus, Czech Republic, Democratic People's Republic of Korea, Dominican Republic, El Salvador, Equatorial Guinea, Greece, Grenada, Guatemala, Guyana, Hungary, Jordan, Kazakhstan, Kuwait, Kyrgyzstan, Libyan Arab Jamahiriya, Luxembourg, Malawi, Mali, Morocco, New Zealand, Nicaragua, Philippines, Qatar, Sao Tome and Principe, Seychelles, Slovakia, Slovenia, Syrian Arab Republic, Turkey, Turkmenistan, Vietnam, Yemen	Angola, Antigua and Barbuda, Bahamas, Botswana, Brunei Darussalam, Burkina Faso, Burundi, Central African Republic, Côte d'Ivoire, Djibouti, Dominica, Eritrea, Ethiopia, Fiji, Gabon, Indonesia, Jamaica, Kenya, Kiribati, Lao People's Democratic Republic, Lebanon, Lesotho, Liberia, Malaysia, Marshall Islands, Mauritania, Mozambique, Nauru, Niger, Oman, Papua New Guinea, Saint Lucia, Saint Vincent and the Grenadines, Samoa, San Marino, Senegal, Singapore, Solomon Islands, Swaziland, Tonga, Tuvalu, United States of America, Vanuatu, Zambia

68. The second pillar of the right to education, respect of freedom *of* and *in* education, cannot be easily subsumed under similar clear-cut categorizations because governmental obligations of conduct are usually accompanied by access to remedy for those who feel that their freedom has been denied or unduly constrained, and the Special Rapporteur has therefore started examining this subject matter by focusing on remedies available to the affected individuals, families and communities.

69. The absolute international priority for enhancing access to education for the millions of children who have none has necessarily led to a lesser attention to translating human rights in education into operative guidance for international and domestic actors working in education. Koïchiro Matsuura, Director-General of UNESCO, has emphasized his dedication to tackling the methods and content of education.[43] Analysis of educational curricula and textbooks promises to provide a background for conceptualizing what is commonly called "values education" amongst educationalists. The Special Rapporteur met with the new Director of UNESCO/IBE (the International Bureau of Education), Cecilia Braslavsky, on 14 September 2000 to discuss the continuation of cooperation according to the Protocol of Cooperation of 1 October 1999. The orientation and contents of education can only be studied in close collaboration between educationalists and human rights lawyers, and the Special Rapporteur is very much looking forward to this collaborative effort.

B. The emerging jurisprudence database

70. The forthcoming public access human rights resource and training service on the right to education has been founded upon the recommendation of the Commission on Human Rights for advancing human rights education.[44] The vast amount of background information which is needed to depict the international legal framework for the right to education, such as ratifications, reservations, reporting procedures, or access to international remedies, is best made available through a database. Domestic constitutional guarantees relating to the right to education, as well as provisions on direct applicability of international human rights treaties, constitute the complementary part of such background information. Domestic education laws, strategies and policies are too numerous to be collected into an easy-to-use database. Moreover, the human rights approach requires a focus on the substantive guarantees and procedural mechanisms for securing remedies when these guarantees are breached, hence the priority for jurisprudence in the Special Rapporteur's work.

71. International human rights law is not directly applicable in most countries and most human rights treaties (with the exception of those generated within the ILO) have been adopted without procedural mechanisms for international litigation of economic and social rights or the rights of the child. These two features are closely linked: domestic legal enforcement of a right is an essential prerequisite for its international enforcement. Making the existing domestic jurisprudence available promises to further the knowledge about legal enforcement of the right to education and thus strengthen its legal underpinning.

72. Large numbers of cases have been litigated, domestically and internationally, clarifying the nature and scope of the right to education and the corresponding governmental obligations. These encompass the governmental obligation to secure school attendance for all children as well as controversial school voucher schemes, which the Special Rapporteur summarized in her

progress report (E/CN.4/2000/6, paras. 39-41). Although resource allocation is perceived as an inherently political decision, intrusions into decisions on resource allocation have been necessitated by the general entitlement of all children to free and compulsory education. The first obligation relates to ensuring that education is available. English courts have held that this obligation requires the authorities to do whatever they reasonably can to comply. In one case, the duty of the local education authority to secure sufficient places at school for all children within the compulsory school age was not fully implemented and 300 children were deprived of primary education because of a shortage of teachers. The court held that the authority had done whatever was in its powers to rectify the situation and was thus not in breach of its statutory duty.[45] A group of senators in the Philippines challenged in 1991 the constitutionality of the budgetary allocation of P86 billion for debt servicing, while P27 billion were allocated for education. The Constitution of the Philippines obligates the Government to assign the highest budgetary priority to education. The issue to be decided was whether debt servicing, exceeding three times the budgetary allocation for education, was unconstitutional. The Court found that education had been the highest budgetary priority, while debt servicing was necessary to safeguard the creditworthiness of the country and thus the survival of its economy.[46] The meaning of free education was examined by the Constitutional Court of the Czech Republic upon a demand upon the State to provide textbooks and teaching materials free of charge. The Court has clarified that "free" means that in primary education the State bears the costs of establishing schools, their operation and maintenance, and should not demand tuition, adding: "The State bears the essential part of these costs, however, it is not obliged to bear all of them."[47] These few examples demonstrate that the fiscal implications of the obligation to make primary education free, compulsory and all-encompassing have been affirmed by domestic courts in different corners of the world.

C. Human rights in education as prerequisite for human rights education

73. A great deal of jurisprudence has been generated through challenges of unacceptability of education - the orientation and contents of curricula and textbooks, the rights and duties of teachers, methods of instruction, protection against violence, the language of instruction, enforcement of school discipline, the presence of religious symbols in education committed to secularism and many other issues. The Commission has emphasized that the knowledge of human rights should become a priority in education policies,[48] and the Special Rapporteur has therefore concentrated on the recognition of human rights in education as the necessary prerequisite for the teaching of human rights. Because it is well known that children learn through observation rather than exhortation, the recognition of their rights in education will greatly facilitate human rights education.

74. Human rights safeguards have been directed particularly at compulsory education because, as the United States Supreme Court has clarified, attendance is involuntary and thus compulsory education involves the coercive power of the State.[49] Respect for parental freedom to have their children educated in accordance with their religious, moral or philosophical convictions has been affirmed in all general human rights treaties and is continuously subjected to litigation. The European Court of Human Rights has affirmed that human rights law "requires the State actively to respect parental convictions within the public schools",[50] and the (former) European Commission on Human Rights added that the State's obligation to respect parental convictions "prohibits any indoctrination of pupils".[51] International human rights law also

obliges the State to respect the freedom of parents and communities to establish and operate schools. The rationale is, in the words of the Supreme Court of Spain, to remove the State's monopoly over education and protect educational pluralism.[52]

75. Domestic courts have started to recognize that children themselves have standing to vindicate their right to education and rights in education. The Supreme Court of Colombia examined a complaint by two boys who had been prevented from continuing their education by attending evening classes (they had to work during the day, being too poor to afford full-time education) because of their homosexuality. The Court faulted the school for having failed to exhibit the values of tolerance and respect of diversity, adding that a public school which posits that "homosexuality is sinful" excludes potential learners.[53] Because children can be exposed to violence by their teachers and other children, the existing jurisprudence has addressed the need to ensure their safety. The Uganda Human Rights Commission addressed a case of physical punishment of a schoolboy by his teachers, apparently prompted by the boy's attempt to enter the staff room upon a request by another teacher to fetch something. The Commission settled the case by ordering financial compensation for the boy.[54] The Supreme Court of Sri Lanka decided in April 1998 on the constitutionality of a law that aimed to outlaw and suppress, *inter alia*, verbal abuse (called ragging, bullying and/or harassment) within educational institutions. The victimization of students, especially newcomers, through verbal abuse should be outlawed, the Court has affirmed, adding that "ragging has far too long been cruel, inhuman and degrading. Our society has been unable to deal with the root causes of ragging, and the anxieties, fears and frustrations of youth on which ragging has fed and flourished."[55]

76. These examples show how much the entry of human rights has changed education law, which traditionally treated children as the object of education, specifying the rights of parents, teachers and the State. The affirmation of the best interests of the child constitutes an important step towards putting into practice the thrust of the Convention on the Rights of the Child. The Supreme Court of Canada has held that decisions should be made "from a subjective, child-centred perspective, one which attempts to make equality meaningful from the child's point of view as opposed to that of the adults in his or her life.[56] The United States Supreme Court has affirmed that First Amendment rights (free speech) apply to learners (in that specific case aged 13 to 16), which includes their right to challenge an officially prescribed orthodoxy.[57]

77. The few cases which could be referred to within the space limitations of this report demonstrate that steps towards affirming the child as the subject of the right to education have accompanied the wide recognition of the justiciability of the right to education and human rights in education. As part of the follow-up to her mission to the United Kingdom in October 1999 (see E/CN.4/2000/6/Add.2), the Special Rapporteur has been dealing with the rights of the child. Children are not legally subjects of the right to education but rather objects of agreements between their parents and their school. The need for legal reform was brought to the Special Rapporteur's attention by a group of children, who approached her to help them articulate and vindicate their rights in education and did so impressively well. By her letter of 15 November 1999, the Special Rapporteur brought to the attention of the Government of the United Kingdom the case raised by these schoolchildren who felt that their right to be consulted with regard to their own education had not been recognized during the legally mandated evaluation of their school. The Special Rapporteur is fully supportive of children being treated as the subject of the right to education, is exploring this issue as part of her collaboration with the

Committee on the Rights of the Child, treating this subject matter as a catalyst for the conceptual switch towards the full recognition of the rights of the child. The Government's response of 29 February 2000 informed the Special Rapporteur about ongoing initiatives regarding children's participation in decisions on their schooling as well as the introduction of citizenship education. According to that letter, it is only at the level of secondary school that an entitlement for children to take part in decision-making is planned to be recognized. The Special Rapporteur will follow up this issue during her planned visit to England at the beginning of the year 2001.

VI. CONCLUSIONS AND RECOMMENDATIONS

78. By its resolution 1998/33 of 17 April 1998, the Commission decided to appoint the Special Rapporteur on the right to education for an initial period of three years within its general effort to impart higher visibility to economic, social and cultural rights. The Commission's remedial action, aiming at a gradual elimination of disadvantages affecting economic, social and cultural rights, has itself faced many obstacles. One originates from the large number of mandates which have by far exceeded the capacity of the Office of the High Commissioner for Human Rights to provide support. The numerous obstacles and difficulties which the Special Rapporteur has faced in carrying out her mandate have led her to suggest as one option that her mandate not be renewed. Alternatives are to clarify her task as articulating, promoting and defending the right to education; to modify her mandate by emphasizing its features as a thematic procedure; or to broaden her mandate by combining the traditional features of thematic procedures with the promotion of the right to education through international development cooperation.

79. Education is increasingly defined as the key to development and the right to education as the key to the enjoyment of many other human rights. The reverse is seldom analysed. Like dominoes, denials of the right to education place work, social security, or political representation beyond the reach of their victims, who remain on the margins of international and domestic scrutiny.

80. The complexity of economic and social rights is evidenced in the necessity of addressing obstacles at the global, not only the domestic level. The right to education requires close cooperation between, at least, educators and educationalists, economists and human rights lawyers so as to make the mainstreaming of human rights in education strategies at all levels - from local to global - effectively reflect all its necessary components. The multidisciplinarity of human rights work requires close collaboration between different professions with each contributing its own expertise.

81. Mainstreaming human rights in global education strategies necessitates overcoming two obstacles. The first stems from the fact that there are several strategies rather than a single one, hence there is much need for human rights input. Constantly increasing references to human rights provide a valuable entry point, while cautioning against potential abuses of human rights rhetoric to legitimize denials of the right to education. The international and domestic human rights law protecting the right to education and guaranteeing human rights in education should be used as a corrective for all education strategies. The Special Rapporteur recommends to all international actors involved in promoting education to review their approach using human rights as the yardstick. This is particularly important for the World Bank, which has become the major

provider of international funding for education. The Special Rapporteur recommends an internal review of all Bank lending operations in order to identify departures from international legal requirements and undertake corrective action. As the first step, she suggests that an in-house review be carried out to identify where school fees in primary education are being charged, followed by an explicit requirement that these be abolished, and making this known to all affected populations. This would contribute towards creating the foundations upon which human rights could be mainstreamed in global education strategies.

82. The Special Rapporteur's cooperation with numerous intergovernmental actors working in education has enabled her to broach numerous discrepancies between education and the right to education and to articulate rights-based definitions. Categorizations of education into primary, elementary, fundamental, or basic are not internationally comparable and are unsuited to the requirements of international human rights law, which embodies the principle that children have to be in school until they reach the minimum age for employment. Compulsory and all-encompassing education effectively prevents child labour as well as child marriage. The international legal framework thus provides comprehensive guidance for adapting education to the rights of the child. The postulate of indivisibility and interrelatedness of human rights serves, furthermore, as simple and sensible guidance.

83. A particular benefit of the international legal framework is its comprehensiveness. The Special Rapporteur has started addressing the effects of different grounds of discrimination, especially multiple discrimination, on access to education and on accessing all other human rights through education as her contribution to the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance. Governmental obligations mandating an active and interventionist role of the Government to secure the right to education for all and those requiring the Government to accept and respect freedom of education and freedom in education are two sides of the same coin. The former have rightly attracted most international attention because of the continued deprivation of education which victimizes millions of children. As a consequence, most quantitative and qualitative data have been generated on the availability and accessibility of schooling. The exercise of parental choice for the education of their children, freedom to set up schools, freedom from censorship in school textbooks, or protection of the trade union freedoms of teachers are important human rights issues in education for which the human rights community ought to provide input in global and domestic education strategies. The increasing international attention to HIV/AIDS prevention poses a considerable challenge, particularly because girls are disproportionately affected, and the United Nations 10-Year Girls' Education Initiative provides an excellent framework for responding to this challenge.

84. During the first three years of her mandate, the Special Rapporteur has focused on primary education, reflecting the guidance provided her by the Commission on Human Rights. Prioritizing the securing of access to schooling for the millions of children who have none is self-evident. The unintended consequence of the priority accorded to primary and/or basic education in global education strategies has been neglect of secondary and tertiary education. Two facets require particular attention: firstly, teachers need secondary and tertiary education lest primary education become doomed to unqualified teaching staff. Secondly, the neglect of

higher education in international strategies, at the time of growing international trade in education services, is likely to jeopardize prospects for developing countries. The Special Rapporteur feels that this topic requires the Commission's attention.

85. In the process of according economic, social and cultural rights their due status, development organizations have been in the forefront of international action through endeavours such as the Campaign on the Right to Education, a joint activity of Oxfam, Education International and ActionAid. In individual countries, educationalists have been at the forefront of domestic efforts to vindicate the right to education, including through litigation. Human rights organizations have started adapting to the need to elevate the status of economic, social and cultural rights in their work and most agree that much more needs to be done. Acknowledging that the right to education exists but not accepting the necessary consequence, namely that every right can be violated and the right to education is no exception, has often been an obstacle to giving the right to education the priority it deserves.

Notes

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[2] J. Tooley, *The Global Education Industry. Lessons from Private Education in Developing Countries*, International Finance Corporation and Institute of Economic Affairs, Washington D.C. and London, 1999.

[3] Country reports prepared for the Education for All (EFA) Forum in April 2000 are available at http://www2.unesco.org/efa/wef/countryreports/home-html.

[4] K.A.L. Hyde and S. Miske, *Thematic Study: Girls' Education*, Education for All 2000 Assessment, International Consultative Forum on Education for All, 13 September 2000, p. 38.

[5] T. Valdes and E. Gomariz, *Latin American Women: Compared Figures*, Instituto de la Mujer and FLASCO (Facultad Latinoamericana de Sciencias Sociales), Santiago de Chile, 1995, p. 105.

[6] E.A. Mbilinyi, Women and gender relations in school textbooks, in: D.A. Mbilinyi and C. Omari (eds.), *Gender Relations and Women's Images in the Media*, Dar es Salaam University Press, Dar es Salaam, 1996, pp. 93-94.

[7] C. Bentall et al., *Funding Agency Contributions to Education for All*, Education for All 2000 Assessment, Thematic Studies, Overseas Development Institute, London, 11 February 2000, pp. 32-35.

[8] V. Thomas et al., *The Quality of Growth*, The World Bank & Oxford University Press, Washington, D.C./New York, September 2000, p. 68.

[9] UNICEF Innocenti Research Centre, *Young People in Changing Societies*, The MONEE Project, Regional Monitoring Report No. 7, Florence, 2000, p. 42.

[10] ILO/UNESCO - Joint ILO/UNESCO Committee of Experts on the Application of the Recommendation concerning the Status of Teachers, Report of the Fourth Special Session, Paris, 15-18 September 1997, CEART/SP/1997/13.

[11] The full text of the Convention as well as all information on ratification and implementation can be found at www.ilo.org.

[12] In his address launching the United Nations 10-year Girls' Education Initiative at the World Education Forum on 26 April 2000, the Secretary-General noted: "Prevented from going to school, [girls] are denied information about how to protect themselves against the virus. Without the benefit of an education, they risk being forced into early sexual relations, thereby becoming infected. Thus, they pay many times over the deadly price of not going to school."

[13] The Bank's operational policies, based on the Articles of Agreement, are formally approved by the Bank's Board and establish parameters for the lending operations. There are none for education or for human rights. Alongside environmental assessment, nine safeguard policies have been adopted for the protection of cultural property, disputed areas, forestry, indigenous peoples, international waterways, involuntary resettlement, natural habitat, pest management, and safety of dams.

[14] A. Meltzer, A better way to help the world, *Financial Times*, 24 April 2000.

[15] *The World Bank Annual Report 2000*, Washington, D.C., 2000, p. 7, 9 and 19.

[16] The World Bank - Program appraisal document on a proposed credit in the amount of SDR 28.5 million to the Republic of Zambia in support of the first phase of the Basic Education Subsector Investment Program (BESSIP), Report No. 19008 ZA, 5 March 1999.

[17] United States Congress - Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2001.

[18] K. Tomaševski, The influence of the World Bank and IMF on economic and social rights, *Nordic Journal of International Law*, vol. 64, 1995, pp. 385-395.

[19] E. Umanna, (ed.), *The World Bank Inspection Panel. The First Four Years (1994-1998)*, The World Bank, Washington, D.C., November 1998, p. 324.

[20] The World Bank, Conclusions of the Board's second review of the Inspection Panel, 20 April 1999, text available at www.worldbank.org/html/extdr/ipwg/secondreview.htm.

[21] G. Psacharopoulos and M. Woodhall, *Education for Development. An Analysis of Investment Choices*, The World Bank/Oxford University Press, Washington, D.C., 1985, p. 150.

[22] The World Bank, *Education in Sub-Saharan Africa: Policies for Adjustment, Revitalization and Expansion*, Washington, D.C., 1988, p. 53.

[23] The World Bank, *Primary Education*, Washington, D.C., 1990, p. 44-45.

[24] The World Bank's adjustment lending policy, Operational Directive 8.60 of 21 December 1992, specifies that explicit conditionality may be appropriate to enhance the poverty orientation of social expenditures and to sustain their levels.

[25] I.F.I. Shihata, The World Bank Inspection Panel - A background paper on its historical, legal and operational aspects. Paper submitted to the Expert Meeting on the Inspection Panel, Lund, Sweden, 23-25 October 1997, mimeographed, p. 28.

[26] E. Umanna, (ed.), *The World Bank Inspection Panel. The First Four Years (1994-1998)*, The World Bank, Washington, D.C., November 1998, p. 326.

[27] The Dakar Framework for Action, Education for All: Meeting Our Collective Commitments, Text adopted by the World Education Forum, Dakar, 26-28 April 2000, para. 3, available at http://www2.unesco.org/wef/en-conf/dakframeng.shtm.

[28] The statement of the president of the World Bank, James Wolfenson, included this section: "Here I also want to pay special tribute to the efforts of the NGOs involved in the Global Campaign for Education. They have played an important advocacy role. We fundamentally agree with their call that by the year 2015 free education be a right for all children up to age 15." J.D. Wolfenson, A time for action: Placing education at the core of development, Presentation at the World Education Forum, Dakar, 27 April 2000, available at http://www2unecso.org/wef/en-news/coverage_speech_wolfen.shtm.

[29] Report on the situation of human rights in Rwanda submitted by Mr. René Degni-Ségui, Special Rapporteur, (E/CN.4/1997/61 of 20 January 1997), para. 25.

[30] C. Wright, Reflections on Sierra Leone, in: S. Tawil, (ed.) - *Final Report and Case Studies of the Workshop on Educational Destruction and Reconstruction in Disrupted Societies, 15-16 May 1997, Geneva, organized Jointly by the International Bureau of Education and the University of Geneva*, Geneva, 1977, p. 21-22.

[31] Committee on Economic, Social and Cultural Rights - General Comment No. 8 - The relationship between economic sanctions and respect for economic, social and cultural rights (E/C.12/1997/8 of 12 December 1997), para. 5.

[32] Commission on Human Rights resolution 1998/11 of 9 April 1998, entitled "Human rights and unilateral coercive measures", para. 4.

[33] The adverse consequences of economic sanctions on the enjoyment of human rights: working paper prepared by Mr. Marc Bossuyt, in accordance with Sub-Commission decision 1999/111 (E/CN.4/Sub.2/2000/33 of 21 June 2000), para. 26.

[34] The World Bank, *Attacking Poverty: World Development Report 2000/2001*, Oxford University Press, New York, September 2000, p. 203.

[35] Wolfenson pledges development reform, *Financial Times*, 29 September 1999.

[36] Communiqué of the Interim Committee of the Board of Governors of the International Monetary Fund, Press release No. 99/46 of 26 September 1999 (corrected 27 September 1999), para. 5.

[37] IMF and the World Bank support debt relief for Uganda, International Monetary Fund, Press release No. 00/34 of 2 May 2000.

[38] E. Calamitsis et al., *Adjustment and Growth in Sub-Saharan Africa*, International Monetary Fund, WP/99/51, Washington, D.C., April 1999, p. 31-32; C. McDonald et al., *Income Distribution, Informal Safety Nets and Social Expenditures in Uganda*, International Monetary Fund, Washington, D.C., December 1999, p. 26.

[39] IMF completes first review of Uganda under PRGF-supported program, extends arrangement and approves US$ 11.6 million credit, International Monetary Fund, News brief No. 00/78 of 7 September 2000.

[40] J. Kelly, Learning the new lessons of global "webucation", *Financial Times*, 6 September 2000.

[41] Virtual campus, *Far Eastern Economic Review*, 21 September 2000.

[42] The Special Rapporteur has used all authoritative sources of information on the current constitutional provisions, but some of these may have been outdated or incorrectly translated and she will be grateful for all additions and corrections.

[43] K. Matsuura, Tomorrow's UNESCO, *Educational Innovation and Information*, International Bureau of Education, Geneva, No. 104, September 2000, p. 2.

[44] Commission on Human Rights resolution 2000/71 of 26 April 2000 entitled "United Nations Decade for Human Rights Education", paras. 6 and 7.

[45] *R. v. Inner London Education Authority, ex parte Ali* [1990] C.O.D. 317, [1990] 2 Admin. L.R. 822, 828B.

[46] Supreme Court of the Philippines, *Guingona, Jr. v. Carague*, G.R. No. 94571, 22 April 1991.

[47] Constitutional Court of the Czech Republic, judgement US 25/94 of 13 June 1995.

[48] Commission on Human Rights resolution 2000/71, preamble.

[49] United States Supreme Court, *Edwards v. Aguillard*, 482 U.S. 578, 19 June 1987.

[50] European Commission on Human Rights, *Kjeldsen, Busk Madsen and Pedersen v. Denmark*, Applications Nos. 5095/71, 5920/72 and 5926/72, report of the Commission of 21 March 1975.

[51] European Commission on Human Rights, *Graeme v. United Kingdom*, Application No. 13887/88, Decision of 5 February 1990, *Decisions & Reports*, vol. 64, 1990, p. 158.

[52] Supreme Court of Spain, ruling of 24 January 1985.

[53] Supreme Court of Colombia, *Pablo Enrique Torres Gutierrez and José Prieto Restrepo v. Instituto Ginebra La Salle*, T-147493, judgement of 24 March 1998.

[54] Human Rights Commission of Uganda, *Mpondi Emmanuel v. Nganwa High School*, complaint No. 210 of 1998, decree of 2 July 1999.

[55] Supreme Court of the Democratic Socialist Republic of Sri Lanka, petitions Nos. 6/98 and 7/98 concerning An Act to Eliminate Ragging and Other Forms of Violence, and Cruel, Inhuman and Degrading Treatment, from Educational Institutions, 7 April 1998.

[56] Supreme Court of Canada, *Eaton v. Brant County Board of Education* [1997] 1 S.C.R., 241, para. 67.

[57] United States Supreme Court, *Tinker v. Des Moines Independent Community School District*, 393 U.S. 503, 24 February 1969.